

WATER/RHG

Decision 01-05-006 May 3, 2001

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of HILLVIEW)	
WATER COMPANY, INC. U-194-W, for)	
Authority to issue evidence of indebtedness)	Application 00-10-043
(Promissory Note and Loan Agreement) and to)	(Filed October 19, 2000)
grant security interest in its assets.)	
_____)	

INTERIM OPINION

Summary

In Application (A.) 00-10-043, Hillview Water Company, Inc. (Hillview) requests authority, pursuant to § 816 et. seq. of the Public Utilities (PU) Code and Rule 33 of the Commission's Rules of Practice and Procedure to enter into a loan agreement with the Department of Water Resources (DWR) to borrow \$3,408,477 under the Safe Drinking Water State Revolving Fund (SDWSRF); to encumber its assets pari passu, or ratably, with the interest of Hillview's existing or future secured loans; and to place in effect a surcharge on existing water rates for the purpose of amortizing the loan and accumulating a sinking fund reserve equal to one year's debt service.

On March 15, 2001, Hillview filed an Amended Application requesting for additional authority to enter into a funding agreement with DWR for a \$25,000 planning loan under the SDWSRF. The purpose of the loan is to finance the cost of studies, planning, and preliminary engineering incurred in conjunction with the proposed construction project in the Oakhurst and Sierra Lakes districts.

These pre-construction expenses are now due and payable.

This interim order grants Hillview the authority to obtain a planning loan in an amount not exceeding \$25,000 under the SDWSRF in order to disburse the pre-construction expenses associated with its proposed construction project.

In a separate matter before the Commission is an investigatory proceeding on Hillview on possible violations of statutes and regulations in connection with, among others, utility investment in plant and dealings with customers obtaining water service. Ordering Paragraph 7 of Order Instituting Investigation (OII) dated July 16, 1997 in I.97-07-018 states that:

Until further order, any proposals to increase rates or charges submitted to the Commission on behalf of Hillview, as well as any individual complaints filed against Hillview, shall be consolidated with this enforcement proceeding for consideration.

Because SDWSRF financing compels a simultaneous approval of a source of repayment of the loan, this interim order consolidates into the OII, Hillview's request for authority to borrow \$3,408,477 under the SDWSRF as contemplated in the Amended Application.

Notice of the filing of A.00-10-043 appeared on the Commission's Daily Calendar of October 27, 2000. Eleven protest letters were received. Notice of the filing of the Amended Application appeared on the Commission's Daily Calendar of March 21, 2001.

Background

Hillview, a Class C water utility, operates a water utility subject to the jurisdiction of this Commission.

For the year ended December 31, 1999, Hillview reported that it generated total operating revenues of \$878,360 and net loss of \$78,528. The company's

balance sheet as of December 31, 1999 is summarized below:

<u>Assets</u>	<u>Amount</u>
Net Utility Plant	\$4,072,168
Construction Work in Progress	139,921
Current Assets	313,410
Other Assets	<u>620,750</u>
Total Assets	<u>\$5,146,249</u>
<u>Liabilities & Equity</u>	
Common Stockholders' Deficit	\$ (85,290)
Long-Term Debt	1,412,905
Current Liabilities	1,045,308
Other Liabilities and Deferred Credits	899,803
Contributions in Aid of Construction	<u>1,873,523</u>
Total Liabilities & Equity	<u>\$5,146,249</u>

Hillview owns and operates the Oakhurst-Sierra Lakes (OSL) water system, a community water system (OSL System). The OSL System serves the area in and around Oakhurst in the foothills of eastern Madera County. The water system serves a permanent population of over 2,000 through approximately 900 service connections. In addition, the community hosts an estimated one million visitors per year that pass through on their way to Yosemite National Park.

The OSL water system does not have adequate source of treatment capacity. In addition, the distribution system is unable to adequately distribute treated water and meet summer water demands. To prevent water outages, Hillview utilizes two sources that do not meet the primary drinking water standard for uranium. One of the two wells is treated; however, the existing treatment system cannot effectively remove the uranium to meet the drinking water standard. The distribution system does not

have enough hydraulic capacity to efficiently distribute the treated water. Hillview has implemented mandatory water conservation measures.

On September 8, 1997, DHS issued Hillview a Compliance Order No. 03-11-970-002 for failure to comply with the Uranium MCL and failure to insure that customers are provided with a reliable and adequate source of pure, wholesome, healthful and potable water.

On November 30, 1999, DHS completed a review of the water system and directed Hillview to develop additional source capacity. The problem has been adequately documented in DHS' files.

Hillview submitted a long-term construction loan application for the SDWSRF on May 10, 2000 for its OSL System. DHS approved the funding for the project on or about August 17, 2000. Pursuant to DHS' Technical Project Report approved on August 17, 2000, there is a lack of adequate production, treatment, and distribution capacity within Hillview's Oakhurst-Sierra Lakes water system.

Discussion

By A.00-10-043 filed October 19, 2000, Hillview sought Commission approval to borrow \$3,408,477 under the SDWSRF including a repayment provision to be effected by customer surcharge. This loan application, which includes a rate increase proposal, failed to notify the Commission that, pursuant to Ordering Paragraph 7 of the OII, the Application must be consolidated with the OII. Hillview did not disclose its Application for this loan approval to the assigned Administrative Law Judge, the Ratepayer Representation Branch (now the Office of Ratepayer Advocates (ORA) - Water Branch) or other parties to the OII. Accordingly, the assigned examiner of the Water Division mistakenly prepared a proposed decision authorizing the SDWSRF loan and placed it on the Commission's February 8, 2001 consent agenda. Upon publication of the agenda, ORA staff consulted with the Water Division regarding the OII's requirement that

the loan request, of which ORA had no prior knowledge, be consolidated with that proceeding. In addition, while at a meeting with DHS, Water Division learned that Hillview had applied for a \$25,000 planning loan, the proceeds of which DWR was about to release. At the request of Water Division, the \$25,000 loan was not released and Hillview was advised that because the life of the loan would extend beyond twelve months, PU Code § 818 requires that Hillview obtain Commission authorization for the planning loan.

Hillview has amended its SDWSRF loan application to seek approval of the additional planning loan. We are unaware of whether Hillview's failure to seek the requisite Commission approval of the \$25,000 planning loan or its failure to seek consolidation of the \$3,408,477 SDWSRF loan application with the OIL, as ordered by the Commission, were intentional or innocent mistakes. However, because Hillview's loan history has been problematic, as detailed in RRB's 1997 investigation report, these recent failings are troublesome.

Pursuant to the Amended Application, Hillview seeks authority to enter into a funding agreement with DWR and to issue a promissory note in connection with a planning loan under the SDWSRF in an amount not to exceed \$25,000. The loan principal will be the sum of total loan disbursement to be determined at the completion of the planning project. The planning loan has a term not to exceed five years at zero % interest with semi-annual payments. The proceeds from the planning loan will be used for expenses already incurred in connection with a test well. Specifically, the costs of the test well are:

PG&E power	\$ 2,748.00
Pump	18,287.44
Well head equipment	1,081.06
Labor and Materials	<u>1,555.53</u>
Total	<u>\$ 23,672.23</u>

DWR has committed to provide Hillview with the planning loan. This loan may be rolled into the construction project loan requested in A.00-10-043. As of now there is no final time schedule as to when the construction will commence.

Hillview is authorized in this interim order to enter into a funding agreement with DWR for a planning loan not exceeding \$25,000.

The authority requested by Hillview in A.00-10-043 to borrow \$3,408,477 under the SDWSRF; to encumber its assets ratably with the interest of Hillview's existing or future secured loans; and to place in effect a surcharge on existing water rates for the purpose of amortizing the loan and accumulating a sinking fund reserve equal to one year's debt service will be addressed in the OII. Other issues pertaining to A.00-10-043 such as protests and comments will also be addressed in the OII.

In Resolution (Res.) ALJ 176-3050 dated November 2, 2000, the Commission preliminarily categorized A.00-10-043 as ratesetting, and preliminarily determined that hearings were not necessary. Eleven protest letters were received between December 15 and December 21, 2000.

The Commission mailed the draft decision of the Examiner in this matter to the parties in accordance with P.U. Code § 311(g)(1) and Rule 77.7 of the Rules of Practice and Procedure. No comments were received.

FINDINGS

1. Hillview, a California corporation, is a public utility subject to the jurisdiction of this Commission.
2. A.00-10-043 failed to notify the Commission and parties to the OII that, pursuant to Ordering Paragraph 7 of the OII, this Application must be consolidated with the OII.
3. Pursuant to PU Code § 818, Hillview filed an amended application to seek approval of the \$25,000 planning loan.

4. Hillview incurred pre-construction costs in the amount of \$23,672.23 in connection with its proposed construction project in the Oakhurst and Sierra Lakes districts, which are now due and payable.
5. DWR is willing to extend to Hillview a planning loan not exceeding \$25,000 to assist in financing the utility's preliminary costs.
6. The SDWSRF planning loan is at a zero percent interest rate.
7. The OII is an ongoing investigatory proceeding and Ordering Paragraph 7 of the OII must be considered in the approval process of A.00-10-043, as amended because the requested SDWSRF financing for Hillview's proposed construction project compels a simultaneous approval of a source of repayment of the loan.
8. The planning loan is for proper purposes and is not adverse to the public interest.
9. Notice of the filing of the Amended Application appeared on the Commission's Daily Calendar of March 21, 2001, and no protests have been received.

CONCLUSIONS

1. A public hearing is not necessary for this interim order.
2. The proposed planning loan of \$25,000 is not adverse to the public interest.
3. Ordering Paragraph 7 of I.97-07-018 applies to Hillview's proposed construction project because the SDWSRF funding requires the imposition of surcharge.
4. The authority requested by Hillview in A.00-10-043, as amended to borrow \$3,408,477 under the SDWSRF, to encumber its assets and to effect a surcharge on existing water rates should be consolidated with the OII.
5. Hillview should pay the fee determined in accordance with Public Utilities Code § 1904(b).
6. The following order should be effective on the date of signature.

INTERIM ORDER

THEREFORE, IT IS ORDERED that:

1. Hillview Water Company, Inc. (Hillview), on or after the effective date of this order, is authorized to borrow up to \$25,000 from the State of California under the Safe Drinking Water State Revolving Fund (SDWSRF) at zero percent interest, upon terms and conditions substantially consistent with those set forth or contemplated by Application (A.) 00-10-043, as amended.
2. Hillview is authorized to execute and deliver the loan agreement and promissory note with the California Department of Water Resources (DWR).
3. Hillview shall use the proceeds of the planning loan for the purposes specified in the Amended Application.
4. Hillview shall file with the Commission a copy of the DWR planning loan agreement within 15 days of execution.
5. The matter relating to the authority to borrow a \$25,000 planning loan set forth in A.00-10-043, as amended is closed.
6. In all other matters, A.00-10-043, as amended is consolidated with Order Instituting Investigation dated July 16, 1997 in I.97-07-018.
7. The authority granted by this order shall become effective when Hillview pays \$50, the fee set forth by Public Utilities Code § 1904.

This order is effective today.

Dated May 3, 2001, at San Francisco, California.

LORETTA M. LYNCH
President
HENRY M. DUQUE
RICHARD A. BILAS
CARL W. WOOD
GEOFFREY F. BROWN
Commissioners

A.00-10-043 WATER/RHG*